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FISCAL IMPACT REPORT

ORIGINAL DATE
LAST UPDATED 2/4/08 **HB** _____

SPONSOR Jennings

SHORT TITLE Chaves County Land Transfer **SJR** 13

ANALYST Cox

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 13 seeks to ratify and approve a donation or other transfer of 5 parcels of land in Chaves County by the Interstate Stream Commission (ISC) to the town of Hagerman, containing 236.657 acres.

Copies of this resolution are to be transmitted to the chair of the Interstate Stream Commission and to the Mayor and Town Council of the town of Hagerman.

FISCAL IMPLICATIONS

OSE notes:

If the Interstate Stream Commission disposes of the property by donation, the ISC will not received revenue from the sale of the property. As currently provided in S227, if the ISC receives authorization to sell land it has purchased pursuant to 72-1-2.4, funds received from the sale can be used in the Pecos Land Management Fund, 72-1-2.5.

SIGNIFICANT ISSUES

AGO states the following:

SJR appears to conflict with current law and SB 227. See “Conflict, Duplication, Companionship, Relationship” section of this analysis.

Current law, NMSA 1978, § 72-1-2.4, provides the authority for ISC purchases and sales of land and water rights. It provides that the ISC can sell land and water rights it has purchased pursuant to that section if the ISC determines that they are in excess of rights needed to comply with the Pecos River Compact. SB 227 would authorize the ISC to dispose of land without the appurtenant water rights, but the ISC currently does not have authority to do so.

§ 72-1-2.4 also specifies the procedure the ISC must follow in order to dispose of land and water rights. It requires ISC to first offer to sell the land and water rights to the original owner, then if that offer is not accepted, to make it available for purchase at the current market price. Revenues from such sales are to be deposited into the New Mexico irrigation works construction fund. There is no provision authorizing donation of land. SB 227 contains similar provisions but changes the fund into which sale proceeds are to be deposited.

Section 13-6-3 NMSA 1978 requires the ratification and approval of the legislature of any sale, trade or lease of real property belonging to a state agency that involves a consideration of one hundred thousand dollars (\$100,000) or more.

- a. the described real property is no longer suitable for agricultural uses because the water rights have been separated and transferred.
- b. the described real property should be utilized in order to control the environmental issues of land erosion, blowing dust and noxious weed growth.
- c. the town of Hagerman has suffered catastrophic financial losses as a result of the decrease in agricultural-based businesses.
- d. the described real property would be used by the town of Hagerman for economic development, new housing and other facilities serving the community.
- e. the interstate stream commission desires to donate and the town of Hagerman desires to accept title to the described real property;

Current law, 72-1-2.4, provides that the ISC can sell land and water rights it has purchased pursuant to that section if the ISC determines that they are not needed to comply with the Texas v. New Mexico decree on the Pecos or the Pecos Compact. S227 would authorize the ISC to dispose of land without the appurtenant water rights, but until that bill becomes law, the ISC does not have authority to do so.

OSE notes:

72-1-2.4 also requires the ISC to offer such land and water rights first to the original owner. S227 contains the same provision. Therefore, SJM 18 may be in conflict with that the existing provisions if the ISC is not allowed to offer the property to sale to the original owner.

Section 13-6-3 provides that land can be donated to certain entities, but municipalities are not included in the definition of “local public bodies” per 13-6-4(A).

Senate Joint Resolution 13 – Page 3

The ISC has not taken any official action approving the disposition of property to the town of Hagerman as provided in SJM18, which would be required by 13-6-3.

OSE further discusses:

72-1-2.4 NMSA 1978 states that the New Mexico Interstate Stream Commission (NMISC) must offer the land and/or water rights it plans to dispose of, first to the previous owner. If the previous land/water owner does not state interest as per the requirements of the referenced statute, the NMISC may explore other means for sale, lease, trade, or donation as allowed by State law.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with SB 227

See appendix for SJR 13 for legal description of land.

PRC/bb

Appendix for SJM013

Legal Description of lands to be donated via SJM013

TECHNICAL DATA

The Interstate Stream Commission has title to five tracts of certain real property in Chaves county, containing 236.657 acres more or less, being more particularly described as follows:."

"A part of the SW/4 SE/4, and the NW/4 SE/4, and the SW/4 NE/4, Section 3, Township 14 South, Range 26 East, N.M.P.M., Chaves County, New Mexico, being more particularly described as:

From an aluminum-capped rebar set by NMPS9242 (and recorded in Plat Book Q of the Chaves County Clerk at page 19) to mark the South Quarter Corner of Section 3, Township 14 South, Range 26 East (and predicated on the South Line of the Southeast Quarter of said Section 3 being 2642.58 feet in length and having a bearing of South 89°47'00" West); Thence North 00°33'08" East a distance of 297.03 feet to a #4 Rebar with plastic cap marked "LS-8112", and the Point of Beginning; Thence North 00°33'08" East along the Longitudinal Quarter line a distance of 1029.50 feet to a #4 Rebar with plastic cap marked "LS-8112", which marks the Center-South 1/16th Corner of said Section 3; Thence continuing North 00°33'08" East along the Longitudinal Quarter line a distance of 1326.53 feet to a #4 Rebar with plastic cap marked "LS-8112", which marks the Center Quarter Corner of said Section 3; Thence continuing North 00°33'08" East along the Longitudinal Quarter line a distance of 1335.51 feet to a #4 Rebar with plastic cap marked "LS-8112", which marks the Center-North 1/16th corner of said Section 3; Thence North 89°37'21" East along the Sixteenth line a distance of 1282.77 feet to a #4 Rebar with plastic cap marked "LS-8112", which marks the North-East 1/16th Corner of said Section 3. Thence South 00°00'16" West along the Sixteenth line a distance of 1338.93 feet to a #4 Rebar with plastic cap marked "LS-8112", which marks the Center-East 1/16th Corner of said Section 3; Thence South 00°00'15" East along the Sixteenth line a distance of 1326.46 feet to a #4 Rebar with plastic cap marked "LS-8112", which marks the South-East 1/16th Corner of said Section 3; Thence South 00°00'15" East along the Sixteenth line a distance of 1326.46 feet to a #4 Rebar with plastic cap marked "LS-8112", which marks the East 1/16th Corner Common to Sections 3 and 10; Thence South 89°47'00" West along the Section line a distance of 697.24 feet to a #4 Rebar with plastic cap marked "LS-8112"; Thence North 00°33'08" East, Parallel with the Longitudinal Quarter Line of said Section 3 a distance of 297.03 feet to a #4 Rebar with plastic cap marked "LS-8112"; Thence South 89°47'00" West parallel to the South Section line a distance of 624.06 feet to the point of Beginning. Containing 115.00 acres, more or less;
PART S1/2SE1/4 SECTION 15, TOWNSHIP 14 SOUTH, RANGE 26 EAST, N.M.P.M.; BEGINNING AT THE SEc OF SECTION 15:
THENCE S89°36'57"W ALONG THE SOUTH LINE OF SAID SECTION 15 A DISTANCE OF 2363.14 FEET; THENCE

N00°07'39"W PARALLEL TO THE EAST LINE OF SAID SECTION 15 A DISTANCE OF 1321.17 FEET TO THE NORTH LINE OF THE S/2 SE/4 OF SAID SECTION 15; THENCE N89°36'24"E ALONG SAID NORTH LINE A DISTANCE OF 2363.14 FEET TO THE EAST LINE OF SAID SECTION 15; THENCE S00°07'39"E ALONG SAID EAST LINE A DISTANCE OF 1321.54 FEET TO THE POINT OF BEGINNING, CONTAINING 71.683 ACRES+. THIS PROPERTY IS SUBJECT TO A ROADWAY AFFECTING THE EAST LINE OF THIS PROPERTY PER BOOK B PAGE 4 OF COMMISSIONERS PROCEEDINGS APRIL 2, 1907 AND A ROADWAY AFFECTING THE SOUTH 30 FEET OF THIS PROPERTY PER BOOK B, PAGE 37 OF COMMISSIONERS PROCEEDINGS FEBRUARY 29, 1908.; TOWNSHIP 14 SOUTH, RANGE 26 EAST N.M.P.M.;

THE SOUTH 100 ACRES OF THE W/2 W/2 OF SAID SECTION 14. THIS PROPERTY SUBJECT TO AN EASEMENT FOR IRRIGATION AND ACCESS FOR MAINTENANCE OF WELL AND IRRIGATION DITCH BETTER DESCRIBED AS BEGINNING AT THE POINT OF INTERSECTION OF THE NORTH PROPERTY LINE OF PARCEL 3 AND THE EAST RIGHT OF WAY OF MONO ROAD; THENCE N89°45'50"E ALONG SAID NORTH PROPERTY LINE A DISTANCE OF 50.00 FEET; THENCE S00°07'39"E PARALLEL TO SAID EAST RIGHT OF WAY A DISTANCE OF 593.46 FEET; THENCE N89°02'49"E A DISTANCE OF 50.00 FEET; THENCE S00°07'39"E A DISTANCE OF 68.55 FEET; THENCE N89°02'49"E A DISTANCE OF 1192.82 FEET TO THE EAST PROPERTY LINE OF PARCEL 3. THENCE S00°08'02"E ALONG SAID EAST PROPERTY LINE A DISTANCE OF 50.00 FEET; THENCE S89°02'49"W A DISTANCE OF 1292.84 FEET TO THE EAST RIGHT OF WAY OF MONO ROAD; THENCE N00°07'39"W ALONG SAID RIGHT OF WAY A DISTANCE OF 713.36 FEET TO THE POINT OF BEGINNING. PROPERTY IS ALSO SUBJECT TO A ROADWAY AFFECTING THE WEST LINE OF THIS PROPERTY PER BOOK B PAGE 4 OF COMMISSIONERS PROCEEDINGS APRIL 2, 1907 AND A ROADWAY AFFECTING THE SOUTH 30 FEET OF THIS PROPERTY PER BOOK B PAGE 37 OF COMMISSIONERS PROCEEDINGS FEBRUARY 29, 1908.;

PART N1/2SE1/4, SECTION 15, TOWNSHIP 14 SOUTH, RANGE 26 EAST, N.M.P.M.; BEGINNING AT THE SEc N/2 SE/4 OF SAID SECTION 15 FROM WHICH THE SEc OF SAID SECTION 15 BEARS S00°07'39"E A DISTANCE OF 1321.54 FEET; THENCE S89°36'24"W ALONG THE SOUTH LINE OF SAID N/2 SE/4 A DISTANCE OF 2363.14 FEET; THENCE N00°07'39"W PARALLEL TO THE EAST LINE OF SAID SECTION 15 A DISTANCE OF 804.97 FEET; THENCE N89°36'24"E PARALLEL TO SAID SOUTH LINE N/2 SE/4 A DISTANCE OF 2363.14 FEET TO THE EAST LINE OF SAID SECTION 15; THENCE S00°07'39"E ALONG SAID EAST LINE A DISTANCE OF 804.97 FEET TO THE POINT OF BEGINNING, CONTAINING 43.689 ACRES+. THIS PROPERTY IS SUBJECT TO A

ROADWAY AFFECTING THE EAST PROPERTY LINE PER BOOK B
PAGE 4 OF COMMISSIONERS PROCEEDINGS APRIL 2, 1907.

Section 3: SE/4SE/4, less and except the North 198' of the East 136'

Section 10: lots 1, 2, 11 and 12 West Hagerman Addition (SE/4NE/4),
NE/4NE/4

Section 11: NW/4NW/4, SW/4NW/4, NW/4SW/4

All in Township 14 South, Range 26 East, N.M.P.M., Chaves County,
New Mexico

containing 236.657 acres more or less.";